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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES

3
4 **CERTIFIED**
TRANSCRIPT

5 CHRISTOPHER LEE DUNN,)

6 Plaintiff,)

7 vs.) No. BC417928

8) VOLUME II

9 BURBANK POLICE DEPARTMENT;)

10 CITY OF BURBANK; AND DOES 1)

11 THROUGH 100, INCLUSIVE,)

12)
13 Defendants.)

14 Continued Videotaped Deposition of
15 CHRISTOPHER LEE DUNN, taken at
16 444 South Flower Street, Suite 2400,
17 Los Angeles, California, commencing at
18 10:34 a.m., Monday, March 22, 2010,
19 before Susan C. Campana, CSR No. 9573,
20 RPR.
21
22
23
24

1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFF:

4 LAW OFFICES OF RHEUBAN & GRESEN

5 BY: SOLOMON E. GRESEN, ATTORNEY-AT-LAW

6 Suite 1610

7 15910 Ventura Boulevard

8 Encino, California 91436

9 818/815-2727

10

11 FOR THE DEFENDANTS:

12 BURKE, WILLIAMS & SORENSEN, LLP

13 BY: KRISTIN A. PELLETTIER, ATTORNEY-AT-LAW

14 Suite 2400

15 444 South Flower Street

16 Los Angeles, California 90071-2953

17 213/236-0600

18

19 THE VIDEOGRAPHER:

20 TIM BARKER

21 ALSO PRESENT:

22 TIM STEHR

23

24

25

1 A. I believe with Officer Anderson, you covered 10:41:48
2 everything.

3 Q. Okay. And let me ask you, were you friendly 10:41:51
4 with Officer Anderson?

5 A. Yes. 10:41:53

6 Q. And at the time he was making these statements
7 to you, you were friendly with him? 10:41:59

8 A. Yes.

9 Q. And he was joking around with you as a friend? 10:42:03

10 MR. GRESSEN: Foundation. Speculation.
11 You may answer. 10:42:04

12 THE WITNESS: That, I don't know.

13 Q. BY MS. PELLETTIER: Okay. Did you ever say to 10:42:07
14 your -- your friend, "Hey, Officer Anderson, that bothers
15 me. Don't say that"? 10:42:14

16 A. Not in those words.

17 Q. What did you say? 10:42:16

18 A. I would make informal objections.
19 Q. What were those? 10:42:20

20 A. Basically like, "Yeah, right. Okay. We'll see
21 what happens." Specifically in response to the one 10:42:28
22 incident.

23 Q. What one incident? 10:42:31

24 A. When he said that, "We're going to beat you like
25 the Japs in World War II." 10:42:36
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1 And, of course, I said, "Okay. Yeah, right." 10:42:40

2 Q. How is that an objection? 10:42:43

3 MR. GRESN: Argumentative.

4 You may answer. 10:42:46

5 THE WITNESS: Because it's more -- I wasn't happy

6 about it. It wasn't one of those things where I

7 responded specifically stating my feelings. But I

8 thought it was clear there's a difference between

9 responding to a joke and -- and feeling, you know,

10 something had crossed the line. 10:42:57

11 Q. BY MS. PELLETIER: Did you tell Officer Anderson 10:43:01

12 that this crossed the line?

13 A. No. 10:43:06

14 Q. Did you ever tell Officer Anderson that you

15 believed that any of his comments crossed the line? 10:43:15

16 A. No.

17 Q. Did you ever tell Officer Anderson or ask 10:43:20

18 Officer Anderson to stop making comments of a racial

19 nature? 10:43:25

20 A. No. 10:43:28

21 Q. Did you actually go on a fishing trip with

22 Officer Anderson?

23 A. Yes. 10:43:30

24 Q. And you invited him?

25 A. Yes. 10:43:32
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1 Q. And this was during the time that he was making 10:43:36
2 racial comments?
3 A. No. 10:43:37
4 Q. Before or after?
5 A. It was before. 10:43:41
6 Q. When was it?
7 A. I would say maybe 2002 sometime. 10:43:56
8 Q. Did you do anything else --
9 Was it a weekend fishing trip? 10:44:05
10 A. Yes.
11 Q. Did you guys spend the night on a boat or
12 something like that? 10:44:09
13 A. No. 10:44:10
14 Q. Was it a one-day trip?
15 A. Yes. 10:44:13
16 Q. And who all went on that trip?
17 A. I believe Brian Gordon, Officer Anderson, my
18 sister's boyfriend. I can't recall his name. He was the
19 owner of the boat. And as of now, I don't recall. There 10:44:37
20 was somebody else. I don't recall who that was.
21 Possibly my brother. 10:44:44
22 Q. And I take it you invited both Officer Anderson
23 and Officer Gordon on this trip? 10:44:55
24 A. Yes.
25 Q. And what was your assignment at the time that 10:45:01
186

1 Q. And I'm not asking you to repeat what you told 10:54:48
2 me the first time around. I'm -- what I'm doing is
3 you've now had some time to reflect -- 10:54:53
4 A. Right.
5 Q. -- and I want to see if other than these four -- 10:54:56
6 and that was my question.
7 Is there anybody specific who comes to mind who 10:55:01
8 you can say, you know, so and so made a racial comment --
9 you can identify them by name and what they said? 10:55:10
10 A. No.
11 Q. Did you ever make a complaint against -- I'll 10:55:20
12 just go through them by name -- against Sergeant Yadon
13 for the use of racial commentary? 10:55:31
14 A. No.
15 Q. Did you ever make a complaint against Officer 10:55:36
16 Anderson for the use of racial commentary?
17 A. No. 10:55:40
18 Q. Did you ever make a complaint against -- I guess
19 he would have been Detective Losacco at the time for the 10:55:46
20 use of racial commentary?
21 A. Can you define "complaint"? Official? 10:55:56
22 Unofficial? Conversation with supervisor?
23 Q. Well, let's start with "complaint," which is you 10:56:01
24 go and you say to somebody who's -- who's of a higher
25 rank than you, "I am here to complain about inappropriate 10:56:12
194

1 Q. So let me see if I understand once I finish 10:57:39
2 writing.

3 You went to Sergeant Duran and said, you know, 10:57:43
4 "There's an issue here of animosity between me and
5 Losacco"?

6 A. Yes.

7 Q. Okay. And you -- you shared with him that there 10:57:55
8 was this -- I'll call it tension in the relationship or
9 dislike in the relationship? 10:58:03

10 A. Yes.

11 Q. And what did you say to Sergeant Duran 10:58:09
12 specifically about Losacco making inappropriate
13 race-based comments in the workplace, if any? 10:58:20

14 A. I don't recall exactly what I said, but I do
15 recall his response, and it was -- it was -- had to do
16 with racial issues.

17 Q. Okay. Tell me the gist of what you said or what 10:58:34
18 recall you have of what you said to Sergeant Duran about
19 Claudio Losacco using racial commentary in the workplace. 10:58:43

20 A. Again, clarifying, I don't believe that that was
21 the specific topic. There was -- and I'm trying to 10:58:48
22 answer your question specifically so that we keep things

23 straight. There was multiple conversations with Sergeant 10:58:55
24 Duran and Sergeant Murphy, and I'd like to say someone

25 else that I remember. But they involved not only Losacco 10:59:03
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1 but Yadon at the same time, like these individuals that 10:59:08
2 were part of narcotics. And those names were mentioned.

3 So if -- if you want, you know -- I guess you 10:59:17
4 could say that they were included, but they weren't
5 specifically about Claudio Losacco. 10:59:23

6 Q. Okay. And what did you tell Sergeant Duran
7 these individuals, meaning Yadon and Losacco, what -- 10:59:34
8 because I -- what I want to focus in on is what you said
9 to Sergeant Duran about racial comments in the workplace. 10:59:41

10 I understand there's a bigger --

11 A. Correct. 10:59:44

12 Q. -- conversation going on. But I want to know
13 what you recall of -- of indicating to him in terms of
14 racial commentary in the workplace. 10:59:50

15 A. I don't recall that I said anything specific
16 about the exact comments that we're -- we're discussing. 10:59:56

17 Q. Did you say inappropriate racial comments were
18 made? 11:00:04

19 A. It was my understanding at the time that he
20 understood that that's what we were discussing. 11:00:07

21 Q. But I -- what I'm trying to get at is -- because
22 you can't really testify about what's in -- in Duran's
23 head -- 11:00:17

24 A. Right.

25 Q. -- unless he told you.

11:00:19
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1 I'm just trying to get what you communicated to 11:00:22
2 Duran, if anything, in terms of, "I have heard in the
3 workplace inappropriate race-based comments." 11:00:30

4 A. Nothing.

5 Q. Okay. What did you tell Sergeant Duran about 11:00:54
6 why you thought Claudio Losacco didn't like you?

7 A. I don't believe that I told him anything about 11:01:07
8 why he didn't like me.

9 Q. You indicated that -- that there was animosity, 11:01:13
10 and you -- you generally expressed some of the reasons
11 why you thought that existed. 11:01:18

12 A. No. I -- then let me clarify if that's what I 11:01:24
13 said.

14 I believe there's animosity, one-sided. I had
15 never had any animosity towards these individuals -- any
16 of the individuals that I'm -- I'm speaking about. I 11:01:32

17 have not -- I wasn't friendly with Claudio Losacco. I 11:01:39
18 didn't know Claudio Losacco very well. I had never
19 worked with Claudio Losacco prior to narcotics. 11:01:44

20 And it was more of asking why this is happening
21 and what's going to be done about it than me specifically 11:01:51
22 explaining details as to what's occurring.

23 Q. So if I understand you correctly, you never told 11:02:03
24 Sergeant Duran, "Here's why I think Claudio Losacco has
25 animosity towards me"? 11:02:09
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1 let me -- there -- let me ask you a question, in a sense. 11:04:35

2 Is -- do you consider it that I knew that he had
3 reported them? And I don't -- it wasn't because he 11:04:41

4 had -- and it might be because he had told us or other
5 people had said. But I believe that the ongoings, so to 11:04:50
6 speak, of what narcotics was doing was made aware to --
7 to administration. 11:04:54

8 Q. BY MS. PELLETIER: And who is "administration"?

9 A. Lieutenant Taylor -- 11:04:58

10 Q. Okay.

11 A. -- and Captain Janice Lowers. 11:05:02

12 Q. And I think you told us the last time around
13 that this is the issue of animosity between vice on the 11:05:13
14 one hand and SED on the other hand, is what you believe
15 Taylor and Lowers were aware of? 11:05:19

16 A. Yes.

17 Q. Okay. Sergeant Murphy. Did you ever report to 11:05:35
18 Sergeant Murphy that anyone had made inappropriate racial
19 comments in the workplace? 11:05:47

20 A. No.

21 Q. And I know you told us the last time around that 11:06:13
22 Sergeant Murphy became involved -- I guess he would have
23 been Lieutenant Murphy at the time -- when you had a 11:06:19
24 dispute with Yadon about going home early or something
25 along those lines. 11:06:25
201

1 Do you recall that line of testimony? 11:06:27

2 A. I did have a dispute, but it wasn't -- well, it

3 wasn't a dispute. It was more of an -- an incident with 11:06:36

4 Yadon. And I did -- Murphy was directly involved with

5 that. 11:06:42

6 Q. Did you communicate to Murphy in conjunction

7 with him being involved and informed of that dispute that 11:06:54

8 you believe that your dispute with Yadon was race-based?

9 A. No. 11:07:02

10 Q. Anyone other than Sergeant Duran or Sergeant

11 Murphy who you went to to complain about Claudio Losacco? 11:07:33

12 A. Sergeant Ruiz.

13 Q. And did you tell Sergeant Ruiz that Claudio 11:07:49

14 Losacco had used inappropriate race-based comments in the

15 workplace? 11:07:57

16 A. No.

17 Q. Did you tell Sergeant Ruiz that Claudio Losacco, 11:08:08

18 you felt, was treating you differently based on your

19 race? 11:08:14

20 A. No.

21 Q. Was it more of the -- what I think you told us 11:08:21

22 was involved with Murphy where you just went to him and

23 complained about the situation -- the problems you were 11:08:28

24 having?

25 A. The reason I'm pausing is because your question 11:08:33
202

1 is very specific. But again I'll -- I'll refer back to 11:08:38
2 something that I said before.

3 These conversations were definitely race based. 11:08:42

4 I did not go specifically and make "racial comments" or
5 any specifics. The -- kind of the understanding is -- 11:08:49

6 and I'll clarify that on different occasions, Ed Ruiz --
7 Sergeant Ed Ruiz was also a detective that worked with me 11:08:58
8 in SED. And we had conversations as well at that time.

9 And then when he went to gangs and was promoted, we had 11:09:05
10 more conversations. And those conversations, more by him
11 than me, were conveyed as he believed that individuals in 11:09:13
12 the department were racist.

13 Q. Did you share with him that you believed that 11:09:18
14 individuals in the department were racist?

15 A. No. 11:09:28

16 Q. And what was the time frame that you were
17 working with Sergeant Ruiz? 11:09:47

18 A. It was for a short period. I believe it was
19 about six months in two thousand -- 2005 or 2006. 11:10:03

20 Q. Did you make a complaint to anyone about Chris
21 Racina's comment to you at the copy machine? 11:10:59

22 A. I mentioned it to Omar Rodriguez.

23 Q. Okay. Did you complain? Because -- I want to 11:11:07
24 draw a distinction between "I mentioned it" -- "Hey,

25 here's what Racina said to me at the copy machine," 11:11:15
203

1 versus, "Here's what Racina said to me at the copy 11:11:18
2 machine, and I" -- "I have an issue with it."
3 A. And that's why I asked before, the definition of 11:11:25
4 "complaint."
5 My definition of a complaint is you -- you file 11:11:28
6 a formal charge and write it in a memo, you request it to
7 be investigated sort of complaint. 11:11:36
8 If you're referring to venting or discussing or
9 asking for guidance from supervisors, that's -- that's 11:11:42
10 something different.
11 Q. Well, I -- 11:11:45
12 A. So when you ask me if I made a complaint,
13 some -- in some of these questions, I'm saying no. But 11:11:49
14 informally, the motivation would be to discuss what was
15 the reason for these --- 11:11:53
16 Q. Well, I --
17 A. -- incidents. 11:11:54
18 Q. I think we'll -- we'll all agree, you never put
19 any of this in writing? 11:11:58
20 A. Correct.
21 Q. And I think you have given me some instances, 11:12:02
22 particularly with respect to Losacco, of -- of venting or
23 getting your supervisors involved in the incidents or 11:12:10
24 animosity.
25 But let me -- let me just ask you this. 11:12:15
204

1 Chris Racina's comment?

11:13:56

2 A. Not his -- not his comment, no.

3 Q. Okay. And just so I'm clear, I think it's on 11:14:08

4 the record, but given some of your prior commentary, did

5 you ever go to anyone -- I know you didn't do it in 11:14:16

6 writing, but go to anyone and say, "I want to make a

7 complaint against," any member of the Burbank Police 11:14:25

8 Department for inappropriate racial comments?

9 A. No. 11:14:28

10 Q. Did you ever go to anyone and say, "I want to

11 make a report against," any member of the Burbank Police 11:14:38

12 Department for racial comments?

13 A. No. 11:14:42

14 MS. PELLETIER: I'm going to give you back your

15 deposition, which has exhibits. I'm also going to -- I'm 11:15:17

16 not going to mark this, but I'm going to hand you a

17 Culver City interoffice memorandum that is 13-pages long 11:15:28

18 dated March 30, 2007.

19 MR. GRESSEN: Thank you. 11:15:40

20 Are you going to ask him questions about this

21 document? 11:15:43

22 MS. PELLETIER: I am.

23 MR. GRESSEN: Okay. It is -- I just want to note for 11:15:47

24 the record that it's 13 pages, single spaced.

25 You may want to take ten minutes and read it. 11:15:55
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11:16:53

(A recess was taken.)

2 THE VIDEOGRAPHER: And we're back on the videotape

11:25:26

3 record at 11:25 a.m.

4 Q. BY MS. PELLETIER: Mr. Dunn, if -- if you could
5 grab that deposition transcript, too, and take a look at
6 Exhibit 204.

11:25:33

11:26:09

7 Exhibit 204 indicates that you got a call from
8 L.A. CLEAR.

11:26:17

9 Do you recall on March 11, 2007, getting a -- a
10 message from L.A. CLEAR?

11:26:19

11 A. Yes.

12 Q. And what did it say?

11:26:27

13 A. Basically that there was a hit on an agency
14 working my informant.

11:26:36

15 Q. And did they tell you what agency that was?

16 A. Yes.

11:26:41

17 Q. And did they give you contact information for
18 the person who was involved in the operation that
19 resulted in a hit on your informant?

11:26:49

20 A. Yes.

11:26:51

21 Q. And who was that?

22 A. Detective Koffman.

11:26:55

23 Q. Did you call Detective Koffman?

24 A. Yes.

11:27:00
208

25 Q. Okay. And now if you can put that other

1 document in front of you, and I want to direct your 11:27:10
2 attention to the bottom of it, the second to last
3 paragraph. 11:27:14
4 A. First page?
5 Q. Yes. On the first page. 11:27:17
6 "Detective Dunn told Detective Koffman that D
7 was an informant of his but not an active dealer." 11:27:25
8 Did you tell Detective Koffman that?
9 A. I'm sorry. I was reading this when you said 11:27:29
10 that. You directed my attention.
11 Q. The -- that sentence that says, "Detective Dunn 11:27:31
12 told Detective Koffman that D was an informant of his but
13 not an active dealer," did you say that to Detective 11:27:41
14 Koffman?
15 A. Yes. 11:27:42
16 Q. Did -- directing your attention to the next
17 paragraph. 11:27:45
18 Did Detective Koffman give you details about the
19 informant, including the fact that the informant was in 11:27:56
20 the entertainment business?
21 A. That is incorrect. 11:27:58
22 Q. Okay. Did Detective Koffman tell you that the
23 informant was a well-known guy? 11:28:05
24 A. Yes.
25 MR. GRESEN: Chief, could I bug you to grab another 11:28:10
209

1 the telephone conversation that you had four months ago? 12:36:10

2 A. No.

3 Q. How many times did you talk to GD after -- I 12:36:25

4 want to -- I want to set aside March 11th. After

5 March 11th and prior to your termination. 12:36:33

6 A. I think -- and I've answered this years ago. I

7 didn't recall the exact amount. I estimated two or three 12:36:44

8 times.

9 Q. And during any of those conversations, did GD 12:36:52

10 explain her statements to Culver City to you?

11 A. She explained some things that occurred, not 12:37:01

12 necessarily her statements.

13 Q. What did she tell you? 12:37:04

14 A. She had told me that -- she told me a number of

15 things. She told me that Culver City had coerced her 12:37:17

16 into making her statement, that she felt bad. She wanted

17 me to speak to her attorney. Initially I was very 12:37:25

18 reluctant to talk to her. And so I did want to speak to

19 her attorney rather than her to find out what they -- 12:37:32

20 what they wanted, essentially.

21 And there was some conversation where she -- her 12:37:37

22 attorney was like, "Well, she just wants to tell you her

23 side of the story." And she made reference to a number 12:37:43

24 of things regarding what had happened as far as Culver

25 City giving her -- and again, now I have to recall. I 12:37:52

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1 think there's a few things. Talking about the day of her 12:37:56
2 arrest and her interview. Subsequently, there was a
3 phone call to me. I remember she said something about a 12:38:06
4 phone call. She tried to set me up or something.
5 And I believe that was it. 12:38:13
6 Q. Who was GD's attorney that you're referring to?
7 A. A guy named Weiss -- Weiss, I think. Sam is his 12:38:28
8 first name, I think. Sam Weiss.
9 Q. And did you meet with GD and her attorney in 12:38:33
10 person?
11 A. No. 12:38:34
12 Q. It was over the phone?
13 A. Yes. 12:38:37
14 Q. And did you -- when GD -- when you spoke with GD
15 and her attorney, did you call them? 12:38:48
16 A. No. They had called me, and then I called back.
17 Q. And why was it that you called GD and her 12:39:05
18 attorney back when they called during the investigation?
19 A. Because apparently she had information -- or he 12:39:12
20 had left a message. It was very short. I don't recall
21 exactly what it was. But it was something introducing 12:39:18
22 himself and, "I'm representing GD," and to give him a
23 call to discuss some stuff. 12:39:25
24 Q. And you called him?
25 A. Yes. 12:39:28
256

1 Q. And at that time, you were under an order not to 12:39:31
2 communicate with GD?
3 A. I was under an order not to discuss the 12:39:38
4 investigation.
5 Q. And that included not to discuss the facts at 12:39:43
6 issue in the investigation?
7 A. Yes. 12:39:46
8 Q. And your call to GD was a violation of that
9 order; correct? 12:39:56
10 A. No.
11 Q. Why not? 12:39:57
12 A. It was my understanding that if I don't provide
13 information -- I mean, there's no set -- I've never been 12:40:05
14 in -- no one's ever explained to me what that order
15 entailed. Discussing the investigation would be me 12:40:13
16 presenting things that I knew or sharing information. If
17 someone called me and says that, "There's some things
18 that happened that I want you to know about," and I
19 listen to those things, then I don't consider that 12:40:25
20 discussing anything. "Discussion" is usually a two-way
21 conversation. 12:40:29
22 Q. So you didn't say anything during the phone call
23 with GD and her lawyer? 12:40:33
24 A. I'm sure I spoke. I just -- I didn't share any
25 details of the investigation. 12:40:36
257

1 Q. Did you discuss at all or make reference at all 12:40:42
2 to the facts that had led to the investigation?
3 A. No. Again -- and I -- it would have been 12:40:48
4 impossible at that point. I didn't know much about what
5 had happened other than what was provided by her and her
6 sister. 12:40:55
7 Q. Did you ask any questions of GD or her attorney 12:41:12
8 during this phone call?
9 A. I'm sure I asked some questions. 12:41:18
10 Q. Do you recall what you asked?
11 A. No. 12:41:20
12 Q. How long did the call last?
13 A. Which one? 12:41:25
14 Q. How many conversations did you have with GD and
15 her lawyer? 12:41:28
16 A. I estimated between two and three.
17 Q. Okay. 12:41:31
18 A. And they were very short.
19 Q. Did you have conversations with just GD 12:41:42
20 subsequent to March 11th and prior to your termination
21 that were outside the presence of her lawyer, in other
22 words that were just you and her? 12:41:53
23 A. Yes. 12:41:55
24 Q. How many of those did you have?
25 A. I don't recall how many. It wasn't a lot. She 12:41:59
258

12:42:01

1 called me.

2 Q. What's your best estimate of how many times she

12:42:06

3 called you?

4 A. Well, she actually called a lot. I just

12:42:12

5 wouldn't answer the phone.

6 Q. How many times did she call you where you --

12:42:16

7 there was a two-way exchange?

8 A. Two or three again. I don't -- I don't --

12:42:23

9 Q. What number was she calling from?

10 A. I don't remember what number she was calling

12:42:30

11 from.

12 Q. Was it a number that would show up on your phone

12:42:36

13 and you were familiar with?

14 A. Yes.

12:42:46

15 Q. How many --

16 How much time do I have left?

12:42:51

17 THE VIDEOGRAPHER: Just about two minutes, ma'am.

18 Q. BY MS. PELLETIER: Okay. How many conversations

12:42:58

19 did you have with GD's sister subsequent to March 11,

20 2007, and prior to your termination?

12:43:07

21 A. I remember early on there was, again, a handful
22 of conversations, two or three. And then there was one

12:43:13

23 subsequent conversation that was many months later. I

24 would say eight months later.

25 Q. At the time you were having conversations with
12:43:30
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1 Do you need me to go over any of those 14:07:00
2 admonitions?
3 A. I still remember them. 14:07:06
4 Q. Okay. Following your conversation with
5 Detective Koffman, you placed your next call to Sergeant 14:07:16
6 Duran; correct?
7 A. Yes. 14:07:18
8 Q. And you used your Nextel to make that call?
9 A. Yes. 14:07:23
10 Q. And Sergeant Duran tells you during that
11 conversation that you should allow Culver City to proceed 14:07:29
12 with their operation if GD is dealing drugs?
13 A. Yes. 14:07:33
14 Q. And he tells you in sum or substance, "You can't
15 protect a drug dealer"? 14:07:42
16 A. No.
17 Q. What does he tell you -- what else does Sergeant 14:07:45
18 Duran tell you during that conversation?
19 A. He said that he believed based on what I had 14:07:50
20 told him about they believed she was dealing drugs, he
21 said that more than likely she wasn't, and if she was, 14:07:58
22 then they're not going to get much because it was his
23 understanding that she was kind of out of commission. 14:08:04
24 She wasn't able to put together some things that we had
25 recently been working on. 14:08:13
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1 Q. And what did he tell you to communicate to 14:08:18

2 Culver City about proceeding with their operation?

3 A. "Just go ahead and let them" -- "Tell them to 14:08:25
4 proceed."

5 Q. Okay. Did you -- and that was the end of your 14:08:34
6 conversation, basically, "Go tell them to proceed and" --
7 "and I'll talk to you at a workday," or something along
8 those lines?

9 A. Pretty much. It was very short. 14:08:45

10 Q. Okay. Well, let me -- let me ask you this
11 because that was a bad question. 14:08:48

12 How does your call with Sergeant Duran end, if
13 you recall? 14:08:52

14 A. I -- I believe it was much like you had said.
15 It was really no specific follow-up or anything
16 requested. It was, "Okay, then." 14:09:01

17 Q. Okay. And during this phone conversation that 14:09:10
18 you had with Sergeant Duran, did you tell him that you
19 were going to call GD on March 11th? 14:09:17

20 A. No.

21 Q. Did you ever tell Sergeant Duran that you called 14:09:24
22 GD -- I just -- GD on March 11th prior to your
23 termination? 14:09:34

24 A. No.

25 Q. Okay. 14:09:41
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1 share that information. That's normally what happens 14:25:06
2 when two agencies are cooperating. It's important.
3 And I did relay that to -- to Sergeant Webb in 14:25:13
4 the next conversation, that, "This" -- "The individual's
5 good." And, "Do you want that investigation?" 14:25:16
6 And he said, "No. It's out of our
7 jurisdiction." And then he asked if I wanted to join his 14:25:23
8 investigation.
9 That's kind of how the conversation went. It 14:25:23
10 was very cordial and professional with him.
11 Q. Now, you just indicated that it's important when 14:25:27
12 two agencies are cooperating that you share information.
13 A. Yes. 14:25:31
14 Q. Did you ever tell Culver City on March 11, 2007,
15 that you'd spoken to GD multiple times that day? 14:25:39
16 A. No. 14:25:41
17 Q. Why not?
18 A. Because how is that -- I still to this day don't
19 see how that's going to impact their information -- their 14:25:49
20 investigation when obviously I had real-time information,
21 and I shared it with them. I don't -- I also talked to 14:25:55
22 my wife, but I didn't tell them. You know, it could have
23 been -- there's no bearing as to where I got it. 14:25:59
24 Q. Okay.
25 A. I wasn't on trial at the time. 14:26:01
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1 Q. There wasn't any -- there's no potential bearing 14:26:04
2 to Culver City for you to say, "By the way, I called my
3 informant today and had a conversation with her about 14:26:15
4 Jose"?

5 A. Not -- 14:26:17

6 MR. GRESSEN: Incomplete hypothetical. Speculation. 14:26:20
7 Foundation.

8 You may answer.

9 THE WITNESS: Not at the time. I didn't -- I relayed 14:26:23
10 the information she provided to me that the Jose
11 investigation was good. I offered it to them. I didn't 14:26:29
12 say where -- how I just called and verified that.

13 And at the time -- you know, quite frankly, when 14:26:35
14 Koffman comes off with his animosity and his attitude
15 right from the beginning, there was no point at that 14:26:41
16 point. I let the sergeant tell me, you know, and I left
17 a message for him and -- and wished them luck. All I 14:26:49
18 requested -- and in that message I requested that they
19 get back to me with the results of their investigation so 14:26:53
20 that I could know what to do with GD if she's arrested or
21 not. 14:26:53

22 Q. BY MS. PELLETIER: Because you needed that in
23 order to determine what you were going to do with Jose? 14:26:58

24 A. Not only that -- yes, that is correct. But not
25 only that, as I previously testified, that I had options 14:27:04
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1 Exhibit 208 in order to retaliate against you? 15:18:05

2 MR. GRESSEN: Foundation. Assumes facts not in

3 evidence that these were Lael Rubin's conclusions. 15:18:12

4 You may answer.

5 THE WITNESS: No. 15:18:14

6 Q. BY MS. PELLETIER: So we have, by my count,
7 three outside agencies who look at this conduct in -- in 15:18:22

8 one form or another or for one purpose or another --

9 Culver City, the sheriff's department -- actually, I 15:18:29

10 guess you'd say four -- the district attorney's office
11 for filing purposes, and the district attorney's Brady 15:18:36

12 compliance unit. So four separate outside agencies or
13 personnel looking at it. And all four of them 15:18:43

14 conclude -- correct? -- that you tipped the informant.

15 MR. GRESSEN: Vague and ambiguous. Misstates the 15:18:48

16 testimony. Mischaracterizes the evidence. And assumes

17 facts not in evidence as to the conclusions of anybody 15:18:55

18 but the Culver City Police Department.

19 You may answer. 15:18:56

20 THE WITNESS: Based on the documents that they
21 presented, yes, to your question. 15:19:04

22 Q. BY MS. PELLETIER: And I know you've answered
23 this, but I'm summing up. 15:19:07

24 And you don't have any information that any of

25 those four agencies formed that conclusion based on your 15:19:15
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1 race? 15:19:17

2 A. I have a lot of information regarding the

3 preparation of all -- all four of those investigations. 15:19:26

4 Whether they were based on race, I do not know. It was

5 never indicated to me specifically. 15:19:32

6 Q. And basically, with the exception of Koffman and

7 Webb who've had phone conversations with you, none of

8 these people even know you; right? 15:19:40

9 MR. GRESSEN: Foundation. Speculation. 15:19:43

10 THE WITNESS: That is correct.

11 Q. BY MS. PELLETIER: Okay. What evidence or

12 information do you have that your -- that the Burbank

13 Police Department's determination, which was the same as

14 the other four agencies', that you tipped the informant,

15 was based on your race? 15:20:01

16 MR. GRESSEN: Assumes facts not in evidence.

17 Misstates the testimony. 15:20:03

18 Q. BY MS. PELLETIER: If any. I mean --

19 MR. GRESSEN: Rifkin objections. 15:20:11

20 But you can answer.

21 THE WITNESS: I believe there is evidence. 15:20:13

22 Q. BY MS. PELLETIER: And what evidence do you have

23 that the Burbank Police Department in reaching the same

24 conclusions as four other outside agencies did so based

25 on your race? 15:20:27

310

1 MR. GRESSEN: Same objections. 15:20:27

2 THE WITNESS: I believe for a number of reasons.

3 First, in the preparation of those 15:20:34

4 investigations and the way that the investigations were

5 handled. Second would be actions, specifically the legal 15:20:43

6 actions by the police officers -- Burbank police officers

7 involved in the investigation. And the outcome of those 15:20:51

8 investigations and the -- the punishment that was

9 assigned was disparate compared to past investigations. 15:21:01

10 And the fact that other people have indicated -- other

11 witnesses -- police officer witness have indicated that 15:21:07

12 there was preferential treatment and/or influence

13 involved in this investigation. 15:21:12

14 Q. BY MS. PELLETIER: Do you --

15 A. And it's not limited to those answers. That's 15:21:16

16 off the top of my head.

17 Q. Let me ask you, you said that the punishment 15:21:20

18 assigned was disparate with respect to past

19 investigations. 15:21:25

20 Has anybody else in the Burbank Police

21 Department, to your knowledge, ever been placed on a 15:21:29

22 Brady list?

23 A. No. 15:21:31

24 Q. Has anybody else in the Burbank Police

25 Department ever been found by the L.A. County -- let me 15:21:39

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1 strike that.

15:21:41

2 Has anybody else ever had a situation where

3 there's an opinion by the L.A. County Sheriff's

15:21:50

4 Department and the district attorney's office that an

5 officer tipped an informant?

15:21:56

6 MR. GRESSEN: Foundation. Speculation.

7 You may answer.

15:21:57

8 THE WITNESS: Not -- not that I'm aware of.

9 Q. BY MS. PELLETIER: Okay. Now, you indicated --

15:22:07

10 Would you agree with me that if you tipped the

11 informant, that the appropriate punishment was

15:22:12

12 termination?

13 MR. GRESSEN: Improper form of the question.

15:22:16

14 Foundation. Speculation.

15 You may answer.

15:22:18

16 THE WITNESS: I can't -- I'm not an administrator and

17 I'm not a chief. But based on my knowledge of past

15:22:25

18 detectives and similar situations of misconduct and/or

19 crime, they weren't even forwarded to the sheriff's

15:22:34

20 office in their investigations which were sustained and

21 they were disciplined. So it never had a chance to get

15:22:39

22 to the Brady letters level and/or the review by the D.A.

23 Q. BY MS. PELLETIER: Who was involved in the --

15:23:21

24 who made the decision to terminate you?

25 MR. GRESSEN: Foundation. Speculation.

15:23:25
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1 THE WITNESS: I believe it was Chief Stehr. 15:23:27

2 Q. BY MS. PELLETIER: Okay. And who signed off on
3 that decision in terms of concurring with it, if you
4 know? 15:23:38

5 MR. GRESSEN: Foundation. Speculation. 15:23:41

6 THE WITNESS: I don't know.

7 Q. BY MS. PELLETIER: Okay. You indicated that the
8 preparation of the investigation indicates that this was
9 based on your race. 15:24:00
10 What about the preparation of the investigation
11 indicates that? 15:24:07

12 MR. GRESSEN: Misstates the testimony.
13 You may answer. 15:24:12

14 THE WITNESS: There's a number of things with --
15 Which investigation? 15:24:17

16 Q. BY MS. PELLETIER: Well, I presume -- I don't
17 know because you -- I'm just repeating back what you said
18 to me. 15:24:21

19 I said, what information do you have that 15:24:23

20 your -- the conclusion that you tipped the informant that
21 Burbank reached, like all the other agencies who looked
22 at this -- what information do you have that that 15:24:32

23 conclusion was based on your race? And you said -- one
24 of the items you listed was because of the preparation of
25 the investigation. 15:24:37

15:24:42
313

1 A. The investigations, plural.

15:24:44

2 Q. Okay.

3 A. And that's why I'm asking, are you -- do you

15:24:46

4 want to start with Culver City or -- are you talking

5 about Burbank?

15:24:50

6 Q. Well, I'm talking about --

7 Well, did Burbank have any control over Culver

15:24:55

8 City's investigation?

9 MR. GRESSEN: Foundation. Speculation.

15:24:57

10 Q. BY MS. PELLETTIER: To your knowledge.

11 A. No.

15:25:00

12 Q. Did Burbank have any control over the L.A.

13 County Sheriff's Department --

15:25:03

14 MR. GRESSEN: Same --

15 Q. BY MS. PELLETTIER: -- investigation?

15:25:04

16 MR. GRESSEN: Same objections.

17 THE WITNESS: Yes.

15:25:07

18 Q. BY MS. PELLETTIER: And what -- what control did

19 Burbank have over the L.A. County Sheriff's Department?

15:25:13

20 A. According to the documents provided to me,

21 Lieutenant Eric Rosoff provided the sheriffs with the

15:25:20

22 information regarding my investigation along with, I'm
23 assuming, Sergeant Misquez.

15:25:28

24 Q. Provided the sheriffs with the underlying

25 interviews and documentation; correct?

15:25:32
314

1 A. Yes. According to City documents. 15:25:36

2 Q. Okay. What information do you have that the

3 Burbank Police Department played any role in Detective or 15:25:49

4 Deputy, whatever his title is -- let me just get it

5 right -- Sergeant -- 15:25:56

6 A. Lewandowski.

7 Q. -- Lewandowski's conclusion that probable cause 15:26:01

8 existed to believe that you committed a crime?

9 MR. GRESSEN: Same objections. 15:26:06

10 THE WITNESS: That, I don't know.

11 Q. BY MS. PELLETIER: Okay. So let's get to -- 15:26:21

12 well, is your contention that --

13 Are you making a contention or is it your 15:26:30

14 opinion that somehow Burbank did something to influence

15 the investigation or the fact gathering that we see from 15:26:42

16 the Culver City Police Department?

17 MR. GRESSEN: Rifkin objections. 15:26:45

18 You may answer.

19 Q. BY MS. PELLETIER: In other words, do you -- did 15:26:48

20 Burbank do something to unduly influence Culver City when

21 they reached the collusion that you tipped the informant? 15:26:57

22 MR. GRESSEN: Same objections.

23 THE WITNESS: No. 15:26:59

24 Q. BY MS. PELLETIER: Okay. Did Burbank -- well,

25 let me strike that. 15:27:07
315

1 Paragraph -- do you have any information or 15:27:25
2 evidence that any of the information that Burbank Police
3 Department employees provided to the I.A. County 15:27:34
4 Sheriff's Department was inaccurate?
5 A. Yes. 15:27:40
6 Q. And what was that?
7 A. Based on what I had previously testified to, 15:27:47
8 that there's indication that one of the individuals, if
9 not the main individual, who provided documents, 15:27:54
10 statements, evidentiary material to the sheriffs to
11 assist with their investigation was Lieutenant Eric 15:28:01
12 Rosoff.
13 Q. Okay. 15:28:03
14 A. At some point during -- I believe it was after
15 this investigation -- and I think we had covered this in 15:28:08
16 our -- in my first deposition. I became aware that
17 Lieutenant Rosoff had illegally attempted to influence 15:28:17
18 the testimony of a potential witness in my case, an
19 ongoing criminal investigation by the I.A. County 15:28:23
20 Sheriff's Office.
21 Q. And what did -- was Lieutenant Rosoff successful 15:28:27
22 in interfering in the statements that the witness you're
23 referring to made to the sheriff's department? 15:28:37
24 MR. GRISEN: Foundation. Speculation.
25 You may answer. 15:28:41
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1 THE WITNESS: Based on the outcome of this 15:28:43
2 investigation, it's my opinion that he was successful.
3 Q. BY MS. PELLETIER: Okay. Based on the outcome 15:28:49
4 of the sheriff's department investigation?
5 A. Based on the total -- the total incident, 15:28:57
6 beginning to end, where it ended in my termination.
7 Q. Okay. So let me just ask you this. 15:29:03
8 The -- so far as you know, Lieutenant Rosoff
9 only had contact with one Burbank employee who was 15:29:17
10 interviewed by the sheriff's department; correct?
11 Do you have any information about any other 15:29:23
12 contacts that Lieutenant Rosoff had with any other member
13 of the Burbank Police Department before they were 15:29:28
14 interviewed by the sheriff's department?
15 A. No. 15:29:32
16 Q. Okay. And if I understand you correctly,
17 there's only one person who Lieutenant Rosoff attempted 15:29:40
18 to influence in their testimony; is that correct?
19 MR. GRESSEN: Foundation. Speculation. 15:29:45
20 You may answer.
21 THE WITNESS: That I know of. 15:29:46
22 Q. BY MS. PELLETIER: Okay. And what information
23 do you have that that one person -- let's call him TM -- 15:30:00
24 gave inaccurate information to the sheriff's department?
25 A. None. 15:30:06
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15:19:17

1 race?

2 A. I have a lot of information regarding the
3 preparation of all -- all four of those investigations. 15:19:26

4 Whether they were based on race, I do not know. It was
5 never indicated to me specifically. 15:19:32

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7 Webb who've had phone conversations with you, none of
8 these people even know you; right? 15:19:40

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10 THE WITNESS: That is correct.

11 Q. BY MS. PELLETIER: Okay. What evidence or
12 information do you have that your -- that the Burbank
13 Police Department's determination, which was the same as
14 the other four agencies', that you tipped the informant,
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20 But you can answer.

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22 Q. BY MS. PELLETIER: And what evidence do you have
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24 conclusions as four other outside agencies did so based
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4 investigations and the way that the investigations were

5 handled. Second would be actions, specifically the legal

6 actions by the police officers -- Burbank police officers

7 involved in the investigation. And the outcome of those

8 investigations and the -- the punishment that was

9 assigned was disparate compared to past investigations. 15:21:01

10 And the fact that other people have indicated -- other

11 witnesses -- police officer witness have indicated that

12 there was preferential treatment and/or influence

13 involved in this investigation. 15:21:12

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16 off the top of my head. 15:21:16

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18 assigned was disparate with respect to past

19 investigations. 15:21:25

20 Has anybody else in the Burbank Police

21 Department, to your knowledge, ever been placed on a

22 Brady list? 15:21:29

23 A. No. 15:21:31

24 Q. Has anybody else in the Burbank Police

25 Department ever been found by the L.A. County -- let me 15:21:39

311

1 strike that.

15:21:41

2 Has anybody else ever had a situation where
3 there's an opinion by the L.A. County Sheriff's
4 Department and the district attorney's office that an
5 officer tipped an informant?

15:21:50

15:21:56

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15:21:57

7 You may answer.

8 THE WITNESS: Not -- not that I'm aware of.

9 Q. BY MS. PELLETTIER: Okay. Now, you indicated --

15:22:07

10 Would you agree with me that if you tipped the
11 informant, that the appropriate punishment was
12 termination?

15:22:12

13 MR. GRESEN: Improper form of the question.

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17 I'm not a chief. But based on my knowledge of past

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18 detectives and similar situations of misconduct and/or

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19 crime, they weren't even forwarded to the sheriff's

20 office in their investigations which were sustained and

21 they were disciplined. So it never had a chance to get

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22 to the Brady letters level and/or the review by the D.A.

15:23:21

23 Q. BY MS. PELLETTIER: Who was involved in the --

24 who made the decision to terminate you?

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312

1 THE WITNESS: I believe it was Chief Stehr. 15:23:27

2 Q. BY MS. PELLETIER: Okay. And who signed off on
3 that decision in terms of concurring with it, if you
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9 based on your race. 15:24:07

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11 indicates that? 15:24:10

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24 of the items you listed was because of the preparation of
25 the investigation. 15:24:42

313

1 A. The investigations, plural.

15:24:44

2 Q. Okay.

15:24:46

3 A. And that's why I'm asking, are you -- do you
4 want to start with Culver City or -- are you talking
5 about Burbank?

15:24:50

6 Q. Well, I'm talking about --

7 Well, did Burbank have any control over Culver

15:24:55

8 City's investigation?

9 MR. GRESEN: Foundation. Speculation.

15:24:57

10 Q. BY MS. PELLETIER: To your knowledge.

15:25:00

11 A. No.

12 Q. Did Burbank have any control over the L.A.

15:25:03

13 County Sheriff's Department --

14 MR. GRESEN: Same --

15 Q. BY MS. PELLETIER: -- investigation?

15:25:04

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24 Q. Provided the sheriffs with the underlying

25 interviews and documentation; correct?

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314

1 A. Yes. According to City documents. 15:25:36

2 Q. Okay. What information do you have that the

3 Burbank Police Department played any role in Detective or 15:25:49

4 Deputy, whatever his title is -- let me just get it

5 right -- Sergeant -- 15:25:56

6 A. Lewandowski.

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21 they reached the collusion that you tipped the informant? 15:26:57

22 MR. GRESSEN: Same objections.

23 THE WITNESS: No. 15:26:59

24 Q. BY MS. PELLETIER: Okay. Did Burbank -- well,

25 let me strike that. 15:27:07
315

1 Paragraph -- do you have any information or 15:27:25
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6 Q. And what was that?
7 A. Based on what I had previously testified to, 15:27:47
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17 Lieutenant Rosoff had illegally attempted to influence 15:28:17
18 the testimony of a potential witness in my case, an
19 ongoing criminal investigation by the L.A. County 15:28:23
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21 Q. And what did -- was Lieutenant Rosoff successful 15:28:27
22 in interfering in the statements that the witness you're
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316

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17 there's only one person who Lieutenant Rosoff attempted 15:29:40
18 to influence in their testimony; is that correct?
19 MR. GRESSEN: Foundation. Speculation. 15:29:45
20 You may answer.
21 THE WITNESS: That I know of. 15:29:46
22 Q. BY MS. PELLETIER: Okay. And what information
23 do you have that that one person -- let's call him TM -- 15:30:00
24 gave inaccurate information to the sheriff's department?
25 A. None. 15:30:06
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1 Q. And, in fact, TM's position is that he was 15:30:12
2 completely honest with the sheriff's department; correct?
3 MR. GRESSEN: Foundation. Speculation. Assumes facts 15:30:16
4 not in evidence.
5 You may answer. 15:30:17
6 Q. BY MS. PELLETTIER: If -- if you know.
7 A. I don't know what his position was. 15:30:20
8 Q. Okay. Did you see anything in reviewing TM's
9 statement to the sheriff's department that was 15:30:26
10 inaccurate?
11 MR. GRESSEN: Vague. Foundation. 15:30:29
12 What statement?
13 You may answer. 15:30:32
14 THE WITNESS: No.
15 Q. BY MS. PELLETTIER: And, in fact, did -- in 15:30:34
16 reviewing TM's statement to the sheriff's department, did
17 it appear to be accurate? 15:30:38
18 A. Yes.
19 Q. And in -- TM was also interviewed by the Burbank 15:30:44
20 Police Department; correct?
21 A. Yes. 15:30:47
22 MR. GRESSEN: Foundation.
23 Q. BY MS. PELLETTIER: Do you have any evidence that 15:30:49
24 anyone attempted to influence TM's testimony or
25 statements during the internal affairs investigation 15:30:57
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1 conducted by the Burbank Police Department? 15:31:00

2 MR. GRESEN: Rifkin objections. 15:31:01

3 You may answer. 15:31:06

4 THE WITNESS: Repeat the question. I thought you
5 already asked me that. 15:31:06

6 Q. BY MS. PELLETIER: Do you have any information
7 that anybody tried to influence TM in the statements that
8 he made to internal affairs? In other words, that
9 somebody contacted TM before he was interviewed by
10 internal affairs and -- and tried to influence what he
11 said to internal affairs. 15:31:23

12 MR. GRESEN: Same objections. 15:31:27

13 THE WITNESS: Yes. I had already said Lieutenant
14 Rosoff. 15:31:29

15 Q. BY MS. PELLETIER: I'm talking about he went
16 to -- I'm talking about in conjunction with his internal
17 affairs interview, not a sheriff's department interview. 15:31:41

18 MR. GRESEN: Asked and answered. 15:31:43

19 You may answer again. 15:31:46

20 Same Rifkin objections. 15:31:46

21 THE WITNESS: Oh, the internal affairs. I'm sorry. 15:31:46

22 That's where I got it wrong. 15:31:46

23 No. 15:31:46

24 Q. BY MS. PELLETIER: Okay. And did you review
25 TM's statements to internal affairs? 15:31:51
319

15:31:51

1 A. Yes.

2 Q. Did they appear to be accurate?

3 MR. GRESEN: Foundation. Speculation. Assumes facts 15:31:55

4 not in evidence. And speculation as to how many

5 statements he gave. 15:32:03

6 You may answer.

7 THE WITNESS: Yes. 15:32:04

8 Q. BY MS. PELLETIER: And I'm sorry. I lost that
9 with everything --

15:32:06

10 MR. GRESEN: Sorry.

11 Q. BY MS. PELLETIER: -- that's -- that's gone on. 15:32:08

12 You've -- you've -- I just want to make sure.

13 Based upon your review and what you know, TM's 15:32:14

14 statements during the internal affairs investigation

15 interview appear to be accurate?

15:32:19

16 MR. GRESEN: Same objections.

17 THE WITNESS: Yes. 15:32:21

18 Q. BY MS. PELLETIER: So it's fair to say that you

19 don't have any information that TM gave any inaccurate 15:32:27

20 information to either the sheriff's department or to the

21 Burbank Police Department when he was interviewed by 15:32:32

22 those agencies; is that correct?

23 A. That's --

15:32:35

24 MR. GRESEN: Same -- same objections and add form.

25 You may answer.

15:32:38
320

1 THE WITNESS: That is correct. 15:32:40

2 Q. BY MS. PELLETIER: And the internal affairs 15:32:54
3 investigation report that -- that reaches the conclusion

4 that you tipped the informant, who prepared that report?

5 A. I believe it was Sergeant Misquez -- Jerry 15:33:06

6 Misquez.

7 Q. And do you have any information that Jerry 15:33:12

8 Misquez was biased against you based on your race?

9 A. No. 15:33:17

10 Q. By the way, what's Jerry Misquez's race, if you 15:33:22
11 know?

12 A. I don't know.

13 Q. Okay. Do you have any information that Jerry 15:33:29
14 Misquez prepared the report reaching the conclusion that
15 you tipped the informant based upon a desire to retaliate 15:33:38
16 against you?

17 MR. GRESSEN: Rifkin objections. 15:33:41

18 You may answer.

19 THE WITNESS: No. 15:33:42

20 Q. BY MS. PELLETIER: Did you have any problems 15:33:49
21 with Jerry Misquez prior to this investigation?

22 A. No.

23 Can I add something to that? You asked me 15:33:55

24 everyone who prepared. I believe Armen Dermenjian

25 prepared portions of this investigation. 15:34:02
321

15:34:09

1 Q. Okay. And he participated with Sergeant Misquez
2 in interviewing folks; right?

15:34:15

3 A. He replaced Lieutenant Eric Rosoff.

4 Q. And actually, he replaced Lieutenant Eric Rosoff
5 early on in the investigation; right? Right after GD was
6 interviewed?

15:34:27

7 A. I don't recall if it was -- it was early, but I
8 don't know at what point they were in their
9 investigations.

15:34:30

10 Q. And what is Lieutenant Dermenjian's race?

15:34:36

11 A. I believe he's Armenian.

12 Q. Do you have any information that Lieutenant
13 Dermenjian in participating in the investigation against
14 you formed any of his conclusions or took any of his
15 actions because of your race?

15:34:54

16 A. No.

15:34:59

17 Q. Do you have any information that Lieutenant
18 Dermenjian formed any conclusions or took any actions in
19 the investigation in order to retaliate against you?

15:35:07

20 A. Yes.

15:35:11

21 Q. And what's that?

15:35:14

22 A. From very early on --

23 MR. GRESEN: Again, Rifkin objections.

24 I'm sorry. I didn't interpose them.

15:35:20
322

25 THE WITNESS: From very early on when I was on

15:35:24

1 patrol, I -- I got along with pretty much everybody in

2 the department at that time. And -- but there was one

15:35:33

3 particular individual, Sergeant Dermenjian at the time,

4 who had expressed to me concerning things -- concerning

15:35:44

5 statements about how he thought that officers who worked

6 and were after felonies were, in his words, dirty.

15:35:53

7 Q. BY MS. PELLETIER: Worked what felonies?

8 A. Specific officers who only wanted -- they call

15:36:00

9 them "elephant hunters," or wanted the big cases like

10 felony cases.

15:36:05

11 He had a discussion with me in response to -- he

12 had some disagreements with me. And I say

15:36:11

13 "disagreements" loosely because I didn't disagree with

14 him. It's evident he took offense to me early on when he

15:36:19

15 became a sergeant. And he indicated that by -- by

16 talking with me. And there are witnesses to this

15:36:23

17 animosity.

18 Q. And who are those witnesses?

15:36:32

19 A. At the time, my other supervisor was Omar

20 Rodriguez, I believe Officer Mike Reyes, Lieutenant --

15:36:49

21 oh, he was at the time was Sergeant Murphy, Jose Duran.

22 And there's more. It was -- there was other officers,

15:36:57

23 but I can't be sure. It was -- it was pretty well known

24 that Dermenjian didn't like me.

15:37:23

25 Q. I'm looking at the actual investigation report,

323

1 and it goes to Deputy Chief Bill Taylor from Sergeant 15:37:29
2 Jerry Misquez.
3 Do you have any information that Lieutenant 15:37:34
4 Dermenjian participated in the formation of the
5 conclusions set forth by Sergeant Misquez in his memo to 15:37:43
6 Deputy Chief Taylor?
7 A. Only that he conducted some of the interviews 15:37:46
8 that were used to substantiate the termination.
9 MR. GRESEN: Kristin, I -- I know we're running out 15:38:00
10 of time.
11 But do you mind if we can take two minutes for 15:38:04
12 me to stretch my legs? We've been here for a couple
13 hours, and I'm -- not asking questions, I'm starting to 15:38:04
14 wander.
15 MS. PELLETIER: Do you -- do you want to take off 15:38:06
16 your mike and do that while I ask questions, or do you --
17 MR. GRESEN: Oh, you mean stand up and pace? 15:38:14
18 MS. PELLETIER: I thought that's what -- I mean, if
19 you need to use the restroom or something, then -- 15:38:15
20 MR. GRESEN: No, no, no. 15:38:17
21 I'm just going to get water.
22 MS. PELLETIER: I'm almost done here. 15:38:23
23 MR. STEHR: It's 3:40.
24 MS. PELLETIER: Yeah.
25 MR. GRESEN: Don't answer so quick. Let me get my 15:38:31
324

15:38:34

1 objections from the other side of the table.

2 MR. STEHR: Do you want me to grab something?

15:38:39

3 MR. GRESEN: No. I'll go grab it. I need to walk.

4 Q. BY MS. PELLETER: Did you ever raise the fact

15:38:44

5 that Lieutenant -- then Lieutenant Dermenjian didn't like

6 you during the course of the internal affairs

15:38:51

7 investigation into you? In other words, did you ever say

8 to anyone through the process, "He shouldn't be sitting

15:38:58

9 in on the interviews because he doesn't like me"?

10 A. I was on admin leave. I had no contact with

15:39:03

11 anybody.

12 Q. Okay. Did you raise that during the Skelly

15:39:07

13 hearing?

14 A. I believe I did.

15:39:42

15 Q. Did you ever -- I know the answer to this, but
16 I'm going to ask it anyway, make the record clear.

15:39:51

17 Did you ever complain to Armen Dermenjian about

18 racial comments directed at you in the workplace?

15:40:00

19 A. No.

20 Q. I think you told us the last time that when he

15:40:06

21 heard a comment at one point in time, he actually called
22 the person out and corrected it right away?

15:40:11

23 A. Yes.

24 Q. Do you have any evidence that now Lieutenant

15:40:24
325

25 Dermenjian harbors racial bias against minorities?

1 MR. GRESSEN: Rifkin objections.

15:40:25

2 You may answer.

3 THE WITNESS: I have no idea.

15:40:28

4 MS. PELLETIER: Give me just a second while I get my
5 documents back in order.

15:40:54

6 Q. Did you tell Nancy Mercado that you had warned

15:42:02

7 GD but it was your job to warn GD?

8 A. No.

9 Q. Did you tell Nancy Mercado that you tried to

15:42:05

10 protect GD but that the agency -- the other agency wasn't
11 complying?

15:42:09

12 A. No.

13 Q. That the guy with the other agency was a jerk?

15:42:16

14 A. No.

15 Q. You did think the guy with the other agency was
16 behaving kind of jerky; right?

15:42:21

17 A. Not jerky. Unprofessional.

15:42:26

18 Q. Okay. Did you communicate that to Nancy

15:42:30

19 Mercado?

20 A. I might have in the way that I was talking about
21 their professionalism.

15:42:38

22 Q. So when did you have conversations with Nancy
23 Mercado about the professionalism of the Culver City

15:42:48

24 Police Department?

25 A. I don't know if it was a conversation about
326

1 professionalism. But it was definitely -- it was -- when 15:42:56
2 I had conversations with her early on. She had called
3 me. 15:42:59
4 Q. And what did you tell her about Culver City?
5 A. Just that it didn't appear that they were acting 15:43:05
6 appropriately. And -- and it was in response to her
7 saying a number of things about what they had done to her 15:43:13
8 sister.
9 Q. And this is after she tells you that Culver 15:43:18
10 City's doing an investigation of you?
11 A. Yes. 15:43:21
12 Q. And after you're placed on administrative leave?
13 A. No. 15:43:29
14 Q. After you're ordered not to have conversations
15 about the investigation? 15:43:34
16 A. No. 15:43:35
17 Q. Before?
18 A. This was in the first conversation -- first -- 15:43:44
19 there's one or two in the beginning, prior.
20 Q. Did you tell Nancy Mercado that you were on
21 suspension from being a detective, that you had to give 15:43:52
22 your key back to the detective's room?
23 A. Yes. 15:43:55
24 Q. And when did you tell her that?
25 A. In one of the conversations after I was placed 15:43:59
327

1 investigation prepared by Sergeant Misquez -- so I 15:46:15
2 apologize. I'll get the name right this time --
3 indicates to you that there was racial bias going on in 15:46:22
4 the investigation report?
5 MR. GRESEN: Okay. Now, I -- just so we're clear, 15:46:26
6 you said, "What about the investigation by Misquez leads
7 you to believe?" But I think the evidence is only that 15:46:34
8 Misquez prepared the report. And that's where I'm having
9 a problem is -- 15:46:36
10 MS. PELLETIER: Okay. Let me -- let me rephrase it.
11 MR. GRESEN: And I'm sorry. I'm not trying to be -- 15:46:38
12 MS. PELLETIER: Okay. That's fine.
13 Q. You said that Item No. 1 -- I won't go back 15:46:42
14 through it all -- was the preparation of the
15 investigations. 15:46:45
16 What was it in the Burbank Police Department
17 investigation -- which I think we've established is 15:46:53
18 conducted by Misquez and Dermenjian. What --
19 MR. GRESEN: And Rosoff. 15:46:57
20 Q. BY MS. PELLETIER: Well, what did Rosoff do in
21 that investigation? 15:47:00
22 MR. GRESEN: Foundation. Speculation.
23 You may answer. 15:47:01
24 THE WITNESS: I don't know.
25 Q. BY MS. PELLETIER: Okay. So what was it about 15:47:04
329

15:47:05

1 the preparation of the Burbank Police Department

2 investigation that leads you to believe that the
3 conclusion against you was based on your race?

15:47:13

4 A. To begin with, it was grossly incomplete.

15:47:21

5 Q. Okay. And how is it grossly incomplete?

6 A. Well, based on my understanding and past
7 experience with internal investigations, it's reasonable

15:47:27

8 and prudent -- and I'm saying that because I was a

15:47:32

9 detective. It would be reasonable and prudent to

10 interview all the witnesses in the case. It would also
11 be important to report all the evidence that's
12 discovered.

15:47:37

13 Dealing with the first portion of that comment,

15:47:41

14 Sergeant Misquez never interviewed Detective Koffman or

15:47:48

15 any of the -- or any of the individuals at Culver City,
16 and never asked them any of the tough questions that

15:47:54

17 would make me believe that they needed to remain

18 objective and ask Detective Koffman if he did anything

15:48:00

19 wrong, assuming that -- they assumed that he did

20 everything right. And Kaufman is the only percipient

15:48:07

21 witness other than GD to be involved in this. And I

22 found that it was highly strange that he was not
23 interviewed by Burbank PD.

15:48:12

24 On top of that, there was an interview that was

25 conducted with Nancy Mercado via telephonically.
330

1 MR. GRESEN: NM. 15:48:26

2 THE WITNESS: Sorry. 15:48:26

3 MS. PELLETIER: No. I think we --

4 THE WITNESS: No. We established --

5 MS. PELLETIER: -- decided she's okay. 15:48:28

6 MR. GRESEN: Okay. 15:48:30

7 THE WITNESS: "Mercado" is okay.

8 In her first interview, which was over the

9 phone, Sergeant Misquez asks a number of questions. In 15:48:37

10 her second interview eight months later, he asked her

11 some of the same questions, particularly the most 15:48:44

12 important question, "Did Detective Dunn warn GD?" And

13 she completely changes her statement. He fails to report 15:48:51

14 this in the final conclusion which goes to, I assume,

15 Chief Stehr and the upper management for review. 15:48:59

16 Now, unless they were at the interviews and they

17 participated in the interviews, this substantial piece of 15:49:05

18 evidence was left out. Not to mention, Sergeant Misquez

19 fails to report accurately why Lieutenant Rosoff was 15:49:13

20 removed from the case. His -- his depiction of it and

21 the way he writes it is that it was for personnel 15:49:18

22 changes. He fails to mention that not only did the

23 incident with the Merich incident occur, where he tried 15:49:27

24 to tamper with a witness, on top of that, he was under

25 investigation for some other misconduct that I don't need 15:49:34

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1 to go into unless you want me to. 15:49:39

2 MR. GRESEN: Keep going.

3 THE WITNESS: Well, I'm -- it's getting to that point 15:49:42
4 where I'm getting redundant. And maybe a question would
5 help me -- 15:49:47

6 MS. PELLETIER: Okay.

7 THE WITNESS: -- for more information. 15:49:48

8 Q. BY MS. PELLETIER: So let me ask you this. 15:49:53
9 What evidence or information do you have that,
10 in your opinion, Misquez just did a bad job because he
11 did a bad job as opposed to it being motivated by your
12 race? 15:50:02

13 MR. GRESEN: Foundation. Argumentative. 15:50:05

14 You may answer.

15 THE WITNESS: There's no indication that he did a bad 15:50:10
16 job motivated by race.

17 Q. BY MS. PELLETIER: Okay. Do you have any 15:50:41
18 information that Lieutenant Rosoff played any part in
19 drafting the conclusions set forth in Sergeant Misquez's
20 investigation report? 15:50:53

21 A. No. 15:51:20

22 Q. You indicated that there were illegal actions by
23 the BPOA as the second item when I was numbering them in 15:51:28
24 terms of the things that led you to believe that the
25 investigation was -- was flawed. 15:51:35
332

1 STATE OF CALIFORNIA)

) ss. 16:01:54

2 COUNTY OF LOS ANGELES)

3
4 I, Susan C. Campana, a certified shorthand
5 reporter in and for the state of California do hereby
6 certify:

7 That the foregoing proceedings were taken before
8 me at the time and place therein set forth, at which time
9 the witness was put under oath by me;

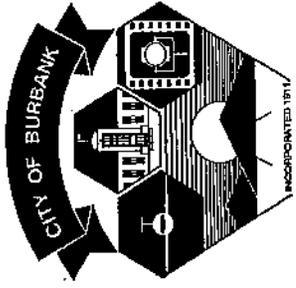
10 That the deposition was recorded
11 stenographically by me and was thereafter transcribed
12 into typewriting under my direction and supervision and
13 contains a true and correct transcript of my shorthand
14 notes so taken.

15 I further certify that I am not related to any
16 party to said action, nor in any way interested in the
17 outcome thereof.

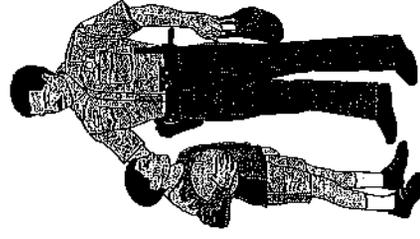
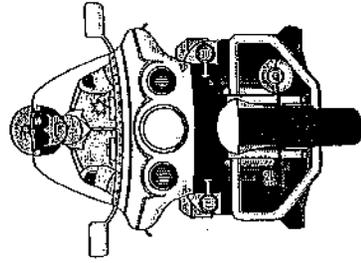
18
19 IN WITNESS WHEREOF, I have hereunto subscribed
20 my name this 6th day of April, 2010.

21
22
23
24 SUSAN C. CAMPANA
SUSAN C. CAMPANA, CSR NO. 9573





Memorandum of Understanding
between the
City of Burbank
and the
Burbank Police Officers'
Association



July 2007 through June 2009

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ARTICLE VI
DISCIPLINARY ACTION

A. STATEMENT/LIMITATIONS

Employees of the City with permanent civil service status shall be assured of fair and consistent treatment and no arbitrary actions will be taken for disciplinary time off or termination of any employee without just cause and due process.

Any person holding a position or employment in the Civil Service System shall be subject to suspension without pay by the appointing power, but such suspensions shall not exceed a total of ninety (90) days in any fiscal year; provided, however, any person suspended without pay shall have the right of appeal in the manner provided by this Article. (BMC 2-514)

Neither the provisions of this section nor this Article shall apply to reductions in pay which are part of a general plan to reduce salaries and wages as an economy measure or as part of a general curtailment program. (BMC 2-515)

B. REASONS FOR SUSPENSION, DEMOTION, OR DISMISSAL

Suspension, demotion, or dismissal of an employee may be accomplished for any one or more of the following reasons:

B.1. Violation of any official regulation or order or failure to obey any proper direction made and given by a superior, or failure to comply with any condition of employment or to maintain any necessary qualification in the course of municipal employment;

B.2. Neglect of duty;

B.3. Unjustified failure or refusal to properly perform the duties assigned;

B.4. Carelessness in the discharge of assigned duties;

B.5. Conduct of a disgraceful or scandalous nature;

B.6. Malfeasance in office or employment;

B.7. Conviction or forfeiture of bail for any job-related misdemeanor involving moral turpitude, or any felony;

B.8. Having one's privilege to operate a motor vehicle on the public highway in the State of California suspended or revoked by the Department of Motor Vehicles where a driver's license is required for the performance of one's job;

B.9. One (1) or more days unauthorized absence;

- B.10. Repeated tardiness;
- B.11. Inability to establish and maintain proper working relationships with fellow officers or employees;
- B.12. Reporting for duty, or being on duty, under the influence of alcohol, drugs or any combination thereof; or rendering oneself unfit to perform fully one's duties for reasons attributable to, or produced by, indulgence in alcohol, drugs, or any combination thereof;
- B.13. Absence from the job during the working hours without permission;
- B.14. Unauthorized use of City tools, equipment or property;
- B.15. Abuse or negligence in the care or operation of City tools, equipment or property;
- B.16. Use of sick leave for unauthorized purposes;
- B.17. Conduct unbecoming a public officer or employee;
- B.18. Receiving gratuities or any personal favor in exchange for the performance or for the non-performance of an assigned duty;
- B.19. Discussion of confidential City business or information with unauthorized persons;
- B.20. Willful refusal to respond to an official call in an emergency;
- B.21. Willfully making any false statements, certificates, or reports or in any manner committing or attempting fraud;
- B.22. Violation of administrative rules and regulations;
- B.23. Illegal possession or use of drugs or narcotics;
- B.24. Incompetency or inefficiency in the performance of required duties;
- B.25. Discrimination against, or harassment of, co-workers or the public based on race, religion, national origin, sex, age, handicap, or other unlawful consideration. (CSR XI)
- B.26. Consuming alcoholic beverages or illegal drugs during work hours, including lunch and rest periods.

C. ORAL OR WRITTEN REPRIMAND PROCEDURES/APPEALS

C.1. Written reprimands shall be preceded by a written or oral notice to the employee of the time, date and reasons for an informal hearing two (2) calendar days prior to the hearing. This notice shall include specific and factual charges as enumerated in § B of this Article.

C.2. All pre-disciplinary meetings relating to oral or written reprimands shall be held before the division commander (Police Captain or Police Administrator) who proposed the discipline. Testimony of witnesses shall not be allowed at pre-disciplinary meetings.

C.3. When the oral or written reprimand is upheld by a division commander, any person may appeal to the Office of the Chief of Police (Chief or Deputy Chief). If the Deputy Chief proposes the discipline and conducts the pre-disciplinary meeting, the appeal shall be to the Chief of Police. The decision of the Office of the Chief of Police is final and there shall be no further administrative appeals for an oral or written reprimand. (Side letter 2/3/07)

C.4. The BPOA and members represented by the BPOA shall have no right to appeal oral or written reprimands to either arbitration or the Civil Service Board.

D. MINOR DISCIPLINE PROCEDURES/APPEALS

D.1. Minor discipline shall be all discipline administered where the punishment imposed is a suspension from work for not more than three (3) work periods or equivalent discipline.

D.2. Minor discipline shall be preceded by a written or oral notice to the employee of the time, date and reasons for an informal hearing two (2) calendar days prior to the hearing. This notice shall include specific and factual charges as enumerated in Section B of this Article.

D.3. All pre-disciplinary meetings shall be held before the division commander (Police Captain or Police Administrator) who proposed the discipline. Testimony of witnesses shall not be allowed at pre-disciplinary meetings for minor disciplines. (Side letter 2/3/07)

D.4. The division commander shall document what occurs at the meeting including the problem, significant facts and the results. A copy will be given to the affected employee, as well as placed in the employee's personnel file, except that no employee shall have any comment adverse to his/her interest entered in his/her personnel file, or any other file used for any personnel purposes

by his/her employer, without the affected employee having first read and signed the instrument containing the adverse comment indicating he/she is aware of such comment, except that such entry may be made if after reading such instrument the affected employee refuses to sign it. Should an employee refuse to sign, the fact shall be noted on that document, and signed or initialed by the officer making the notation.

- D.5. If, during the course of the hearing, it becomes apparent that more than minor discipline is in order, the division commander shall terminate the hearing and then proceed in accordance with the procedure set forth below for major discipline. The employee will be informed as to why the hearing is being terminated.
- D.6. The division commander may decide on the facts and render a decision at the immediate conclusion of the hearing or advise the employee in writing within four (4) calendar days.
- D.7. When the minor discipline is upheld by a division commander, any person may select an arbitrator to hear their appeal pursuant to the process provided for in Section E.7. of this Article. The decision of the arbitrator shall be solely advisory in nature and may be verbal or in writing. The arbitrator in these proceedings shall have the same authority and jurisdiction as provided in Section E.10. of this Article.
- D.8. The appeal hearing and disposition of the appeal shall be informal, the object being to settle the appeal promptly by the parties. The parties shall have the right to offer evidence by witnesses at the hearing subject to the discretion of the arbitrator.
- D.9. The arbitrator may modify the disciplinary action, but in no event shall have the authority to increase the disciplinary action imposed to be greater than a four day suspension.
- D.10. The arbitrator's decision shall be rendered within five (5) working days of after the hearing. Provided, however, the parties may mutually agree to extend the time in which the judgment may be rendered. The arbitrator's decision shall be forwarded to the City Manager, who shall review it and make the final decision within fifteen (15) working days of its receipt.
- D.11. The arbitrator's authority shall be limited to deciding the issues submitted by the parties. The arbitrator shall have no jurisdiction or authority to add to, delete from, or modify any written provisions of any Memorandum of Understanding.

D.12. All costs for the service of the arbitrator, including but not limited to, per diem expenses, travel and subsistence expenses, a transcript, and court reporter (if there is one) will be borne equally by the City and the BPOA.

E. MAJOR DISCIPLINE PROCEDURES/APPEALS

E.1. Major discipline shall be all discipline administered where the punishment imposed may result in suspension without pay of more than three (3) days or in the dismissal or demotion of the employee.

E.2. Major discipline shall be preceded by a notice served on the employee ten (10) calendar days prior to a pre-disciplinary hearing. The notice shall contain the time, date and place of the hearing and shall also contain a brief statement of all charges against the employee. An earlier date may be established if the employee agrees, or with department approval, the date may be extended by five (5) calendar days.

E.3. In major disciplinary matters the statement of charges shall be specific and factual and enumerate violations of **Section B** of this Article.

E.4. In major disciplinary matters, the employee's rights include presenting testimony and evidence, inspection of City evidence, and representation by BPOA or an attorney. A full trial type evidentiary hearing is not required in pre-disciplinary hearings.

E.5. The Police Chief, or his designee, shall preside at major disciplinary hearings. The Police Chief, or his designee, shall document the significant occurrences at the hearing including facts, violations, brief summary of key testimony, attendees, etc. A copy will be placed in the employee's personnel file and the employee will be given a copy. The person conducting the hearing may decide on the facts and render a decision at the immediate conclusion of the hearing or advise the employee in writing within four (4) calendar days.

E.6. When a major discipline is upheld by the Police Chief or his designee, the BPOA may file a written request for arbitration to the Management Services Director within fifteen (15) working days after the employee receives the final notice. In no event may an employee appeal a discipline individually.

E.7. The BPOA and the Management Services Director shall attempt to mutually agree upon an arbitrator. If they cannot agree, they shall strike names from the panel of arbitrators below until one name

remains. [NOTE: The parties reserve the right to incorporate additional, mutually agreed upon, arbitrators to this panel at any time.] The final arbitrator's name remaining on the list shall arbitrate the dispute. The order of striking shall be determined by a coin toss. The arbitrator shall be notified of his or her selection by a joint letter from the parties requesting that he or she set a time and place for the hearing, subject to the availability of the City and Union representatives.

** PANEL OF ARBITRATORS **

Sara Adler
Norman Brand
Charles Askin
Buddy Cohn
Additional Arbitrators TBD

William Dorsey
Walter Daugherty
Mark Burstein
Philip Tamoush

Michael Prihar
Joe Gentile
Robert Austin
Howard Block

E.8. Ten (10) days prior to the hearing by an arbitrator, representatives of the parties shall meet and prepare a submission statement setting forth the issues to be submitted to the arbitrator and exchange evidentiary documents. In the event the parties cannot jointly agree on a submission statement then at the hearing each party shall present to the arbitrator its own submission statement in which case the arbitrator shall determine the issues to be resolved.

E.9. If there is a dispute between the parties as to the question of whether an issue can be arbitrated, that question shall be submitted separately to the arbitrator for resolution prior to addressing the merits of the grievance.

E.10. The arbitrator shall have all the authority provided in California Code of Civil Procedure Sections 1282 to 1284.3, except Section 1283.05 shall not apply to any arbitration held pursuant to this Memorandum of Understanding. The arbitrator shall have jurisdiction over all aspects of the arbitration including evidentiary rulings and discovery requests. Any party aggrieved by any evidentiary rulings or discovery orders may raise those issues as part of any appeal of the arbitrator's final decision after the arbitration via the administrative writ proceeding before the Superior Court.

E.11. Discovery shall be conducted between the parties in an informal way as provided below:

E.11.a. The party seeking information requests must do so in writing to the other party's representative designated to handle and expedite such requests.

E.11.b. A party who receives an information request shall respond within five (5) working days by supplying the information requested or requesting additional time to provide the information, the need for more specificity concerning the request, or its decision not to comply with the request. If a party refuses any request for information, specific reasons for the refusal shall be stated.

E.11.c. If a party requires more specifics, the requesting party shall provide it in writing within three (3) working days. Following the receipt of the more specified request the receiving party shall:

- i) provide the information sought by the requesting party within five (5) working days, or
- ii) inform the requesting party of its decision not to provide the information sought within five (5) working days.

E.11.d. It is understood that a party is under no obligation to provide information that may be protected by the Federal or State Constitution or Federal or State statutes. In the event that information is sought which might involve the release of "confidential" information (home address, medical condition, etc.) a party may offer to provide the information sought in redacted form.

E.11.e. If the receiving party believes that a request is unduly burdensome or does not exist in the form sought by the requesting party it shall inform the requesting party of such during the initial five (5) day period after receiving the request for information and discuss the problem with the requesting party's designated representative. The requesting party may agree to accept the information sought in the form in which the other has it, or press its original claim.

E.11.f. If the parties are unable to agree on what information (if any) is to be provided and/or in what form within the required period, the requesting party shall request the assistance of the arbitrator to obtain the information sought. The arbitrator may issue a subpoena duces tecum, to compel release of the information sought. Any party receiving a subpoena duces tecum issued by the arbitrator shall provide the requesting party with the information required by subpoena within five (5) days of the receipt of the subpoena or shall seek court review within that time. No arbitration shall proceed to hearing until such time as the receiving party has produced the information sought by the requesting party or it obtains an order to the effect that the requesting party is not entitled to the information it has sought.

E.12. The decision of an arbitrator resulting from any arbitration of grievances hereunder shall not add to, subtract from, or otherwise modify the terms and conditions of this Memorandum of Understanding. The decision of the arbitrator shall be solely advisory in nature. The arbitrator's written award shall be submitted within thirty (30) calendar days from the last day of the hearing. The arbitrator's decision shall be forwarded to the City Manager, who shall review the award and make the final decision within thirty (30) working days of its receipt.

E.13. Employee called as witnesses during the course of the arbitration hearing shall be released for that purpose without loss of compensation or benefits. Witnesses will be subject to subpoena issued by the arbitrator, at the request of either the BPOA or the City, and enforceable by the City.

E.14. The fee and expenses of the arbitrator and the cost of a written transcript, including the cost of the court reporter, shall be borne equally by the parties.

E.15. Any permanent employee in the Civil Service System who has been demoted, dismissed or reduced in pay, shall be subject to the disciplinary procedures set forth in this Article and shall not be subject to the jurisdiction of the Civil Service Board. The procedures in this Article are exclusive and in no event shall the State Personal Employee Relations Board (PERB) have any jurisdiction regarding disciplinary actions by the City. Appeals of final decisions by the City Manager shall be made pursuant to the Code of Civil Procedure Sections 1094.5 and 1094.6.

F. MEDIATION

Prior to requesting a post disciplinary hearing, BPOA or City may request that a discipline be submitted to mediation subject to the provisions of Article VII Section D. of this MOU.

G. EMERGENCY DISCIPLINARY SITUATIONS

G.1. Emergency disciplinary situations exist when the continuation on the job by the employee shall constitute an immediate adverse effect on the function of the department.

G.2. In such situations the employee may be placed upon suspension with pay for a period of time no more than ten (10) calendar days from the employee's receipt of notice of the hearing, unless otherwise approved by the City Manager.

G.3. At the discretion of the Police Chief, the employee may not be

permitted to come to his/her regular place of employment or may be assigned a task where the department's function is not jeopardized by his/her presence.

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JODI K. GONDA
a Law Corporation

208 W. ALAMEDA AVENUE
SUITE 202
BURBANK, CA 91502

TELEPHONE (818) 840-0240
FACSIMILE (818) 840-0254
E-MAIL: Jgondas@aol.net

July 17, 2009

Michael Prihar
ARBITRATOR
P.O. Box 3242
Granada Hills, CA 91394-0242

Kristin A. Pelletier
BURKE, WILLIAMS & SORENSEN, LLP
444 South Flower Street, Suite 2400
Los Angeles, CA 90071

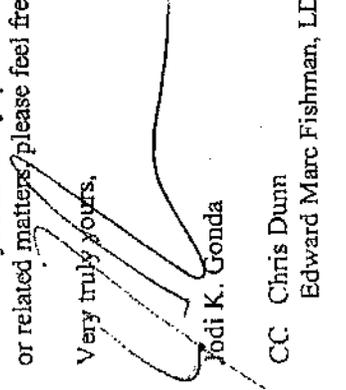
RE: CHRIS DUNN v. CITY OF BURBANK ARBITRATION

Dear Mr. Prihar and Ms. Pelletier:

On Wednesday, July 15, 2009, my client, Chris Dunn informed me that he wished to withdraw his Appeal of Termination from the Burbank Police Department (termination date: July 17, 2008). This letter will confirm my July 15, 2009 e-mail advising you of his decision to withdraw his appeal, and also serve as his formal notice to withdraw from the arbitration process. Hearing dates currently scheduled for July 20, and 27, 2009 will be cancelled.

If you have any questions about Mr. Dunn's abandonment of his Appeal of Termination or related matters, please feel free to contact my office.

Very truly yours,



Jodi K. Gonda

CC Chris Dunn
Edward Marc Fishman, LDF

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MICHAEL PRIHAR

P.O. Box 3242

Granada Hills, CA 91394

TEL (818) 360-2091 FAX (818) 368-5441

INVOICE

July 18, 2009

INTERIM

FINAL

REMINDER (ORIGINAL SENT)

Re: DET. CHRIS DUNN - CITY OF BURBANK
CANCELLATION INVOICE

Arbitrator's reference: 08086fin090718

Client reference:

NATURE OF SCHED. SERVICE OR EXPENSE	NO. OF DAYS	COST / RATE	TOTAL
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7/15 cancellation of 7/20 and 7/22 sched. arbitration	2.00	@\$1,500.00	\$3,000.00
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TOTAL

\$3,000.00

Amount payable by BPOA:

\$1,500.00

Amount payable by City:

\$1,500.00

MAKE CHECKS PAYABLE TO: MICHAEL PRIHAR AND INCLUDE A REFERENCE
TO OUR FILE NUMBER 08086fin090718.

)

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(SPACE BELOW FOR FILING STAMP ONLY)

SOLOMON E. GRESEN [SBN: 164783]
STEVEN V. RHEUBAN [SBN: 48338]
LAW OFFICES OF RHEUBAN & GRESEN
15910 Ventura Boulevard, SUITE 1610
ENCINO, CALIFORNIA 91436
TELEPHONE: (818) 815-2727
FACSIMILE: (818) 815-2737

Attorneys for Plaintiff, CHRISTOPHER LEE DUNN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

CHRISTOPHER LEE DUNN,

Plaintiff,

-vs-

BURBANK POLICE DEPARTMENT, CITY
OF BURBANK, AND DOES 1 THROUGH 25,
INCLUSIVE,

Defendants.

CASE NO.: BC 417 928

PLAINTIFF CHRISTOPHER LEE DUNN'S
RESPONSES TO SPECIAL
INTERROGATORIES LAW PROFOUNDED
BY THE CITY OF BURBANK

SET NO. ONE

Complaint Filed: July 16, 2009

Assigned to: Department 31

PROPOUNDING PARTY: DEFENDANT CITY OF BURBANK

RESPONDING PARTY: PLAINTIFF CHRISTOPHER LEE DUNN

SET NUMBER: ONE

TO DEFENDANTS, CITY OF BURBANK AND TO THEIR ATTORNEY(S) OF

RECORD:

Plaintiff, CHRISTOPHER LEE DUNN, hereby responds to Defendant, CITY OF

BURBANK's Special Interrogatories as follows:

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1 SPECIAL INTERROGATORY NO. 106:

2 State each and every fact (including specific actions, individuals and dates) that supports
3 YOUR contention in paragraph 65 of YOUR COMPLAINT that defendants have engaged in "other
4 practices" besides retaliation which violated YOUR rights under the Public Safety Officers'
5 Procedural Bill of Rights Act.

6 RESPONSE TO SPECIAL INTERROGATORY NO. 106:

7 Objection. Calls for legal conclusion and/or expert opinion beyond the purview of the
8 Responding Party. Further, this Interrogatory calls for speculation, lacks foundation and assumes
9 facts not in evidence. Without waiving the foregoing objection, the Responding Party responds as
10 follows: Responding Party has no information or belief of which to respond to this Interrogatory.
11 Discovery is ongoing and the Responding Party reserves the right to amend this response when more
12 information becomes known.

13 SPECIAL INTERROGATORY NO. 107:

14 Identify all witnesses (by name, address and telephone number) to the facts set forth in
15 YOUR response to Interrogatory No. 106.

16 RESPONSE TO SPECIAL INTERROGATORY NO. 107:

17 Objection. Calls for speculation and the Responding Party lacks foundation with which to
18 adequately respond. This Interrogatory is not full and complete in and of itself. Without waiving the
19 foregoing objection, the Responding Party responds as follows: The Responding Party has no
20 information or belief with which to respond to this request. Discovery is ongoing and the
21 Responding Party reserves the right to amend this response when more information becomes known.

22 SPECIAL INTERROGATORY NO. 108:

23 Identify all DOCUMENTS (by author, title, and date) that reflect, refer to, relate to or
24 support the facts set forth in YOUR response to Interrogatory No. 106.

25 RESPONSE TO SPECIAL INTERROGATORY NO. 108:

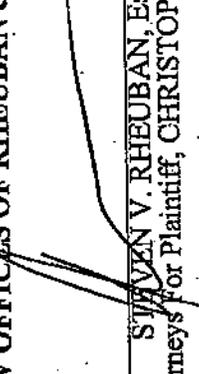
26 Objection. Calls for legal conclusion and/or expert opinion beyond the purview of the
27 Responding Party. This Interrogatory is not full and complete in and of itself. Further, this
28 Interrogatory calls for speculation, lacks foundation and assumes facts not in evidence. Without

1 RESPONSE TO SPECIAL INTERROGATORY NO. 120:

2 Objection. This Interrogatory is duplicative of Form Interrogatory served simultaneously
3 with these Special Interrogatories and, therefore, could only be intended to harass, vex, annoy and
4 burden the Responding Party. Discovery is ongoing and the Responding Party reserves the right to
5 amend this response when more information becomes known.
6

7 Dated: November 23, 2009

LAW OFFICES OF RHEUBAN & GRESEN

8
9 By: 

10 STEVEN V. RHEUBAN, Esq.
11 Attorneys For Plaintiff, CHRISTOPHER LEE DUNN

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles. I am over the age of eighteen and am not a party to the within action. My business address is 15910 Ventura Boulevard, Suite 1610, Encino, California 91436.

On November 23, 2009, I served a copy of the following document described as **PLAINTIFF CHRISTOPHER LEE DUNN'S RESPONSES TO SPECIAL INTERROGATORIES PROPOUNDED BY THE CITY OF BURBANK; VERIFICATION** on the interested parties in this action as follows:

Kristin A. Pelletier, Esq.
Burke, Williams & Sorensen, LLP
444 South Flower Street, Suite 2400
Los Angeles, California 90071
FACSIMILE: (213) 236-2700

BY MAIL: By placing a true copy thereof enclosed in a sealed envelope(s) addressed as above, and placing each for collection and mailing on that date following ordinary business practices. I am "readily familiar" with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. mail Postal Service in Los Angeles, California, in a sealed envelope with postage fully prepaid.

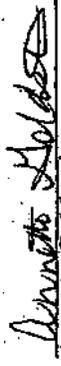
XX
BY OVERNIGHT DELIVERY: I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed as above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

BY FACSIMILE: Based on an agreement of the parties to accept service by facsimile transmission, I faxed the documents to the person(s) at the facsimile numbers listed above. The telephone number of the sending facsimile machine is (818) 815-2737. The sending facsimile machine issued a transmission report confirming that the transmission was complete and without error. A copy of that report showing the time of service is attached.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person(s) at the e-mail address listed above. My electronic notification address is ag@rglawyers.com. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A copy of the electronic transmission showing the time of service is attached.

XX
STATE: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED on November 23, 2009, at Encino, California.


Annette Goldstein